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Application No. 04 007 646.5 - 1245	Ref. 102 915 a&cho	Date 11.09.2007
Applicant NTT DoCoMo, Inc.		

#### Communication pursuant to Article 96(2) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

of 4 months

from the notification of this communication, this period being computed in accordance with Rules 78(2) and 83(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (Rule 36(1) EPC).

Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).



Alecu, Mihail  
 Primary Examiner  
 for the Examining Division

Enclosure(s): 3 pages reasons (Form 2906)



## Bescheld/Protokoll (Anlage)

## Communication/Minutes (Annex)

## Notification/Procès-verbal (Annexe)

Datum  
Date  
11.09.2007Blatt  
Sheet  
Feuille  
1Anmeldo-Nr.:  
Application No.:  
Demande n°:  
04 007 646.5

The examination is being carried out on the following application documents:

## Description, Pages

2, 4-6, 8-39 as originally filed

1, 1a, 3, 7 received on 13.11.2006 with letter of 13.11.2006

## Claims, Numbers

1-12 received on 13.11.2006 with letter of 13.11.2006

## Drawings, Sheets

1/8-8/8 as originally filed

1. Reference is made to the following document/s; the numbering will be adhered to in the rest of the procedure:

- D1: EP-A-1 132 796 (UNIVERSITE CATHOLIQUE DE LOUVAIN) 12 September 2001 (2001-09-12)  
D2: WO 01/84283 A (MOLDFLOW CORPORATION; PENDLEBURY, IAN, MALCOLM) 8 November 2001 (2001-11-08)  
D3: WO 03/021467 A (QUALCOMM, INCORPORATED; SPRIGG, STEPHEN, A; LUNDBLADE, LAURENCE) 13 March 2003 (2003-03-13)  
D4: EP-A-0 813 132 (INTERNATIONAL BUSINESS MACHINES CORPORATION) 17 December 1997 (1997-12-17)

2. The objections raised in the previous communication are maintained with regard to the amendments received with the letter dated 13-11-2006, with the exception of the Article 84 EPC objection raised in paragraph 2.3 of the previous communication, which is considered to be overcome by the present wording of claim 12.

Further explanations about why the objections are maintained and new objections raised as a result of the explanations given in the letter dated 13-11-2006 follow:



## Bescheld/Protokoll (Anlage)

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2.1 For clarification, the word "invention" is considered by the examiner, in the light of Rule 29 (1) and (3) EPC, to refer to the matter claimed in the independent claims. It appears that in the letter dated 13-11-2006, the representative used this word to refer to parts of the description and/or dependent claims.

2.2 While RRL according to document D1 may be different from "data indicating permissible behaviour for an application", this difference is irrelevant in the context of the present invention, which deals with checking validity of data and executing or not a program based on a result of this check.

2.3 Data is considered to be a string of bits. The meaning of the data - is the data indicating "permissible behaviour", or is the data indicating "necessary resources for executing software" - comes from interpreting the string of bits by a entity - either human or hardware/software device.

This entity is not claimed in claim 1. The skilled person, faced with a device which stores the data "0011" and otherwise contains the other features claimed in claim 1 would be unable to determine if "0011" is "data indicating permissible behaviour for an application" or "data indicating necessary resources for executing software" and thus unable to determine if the device falls under the scope of claim 1 or not. Claim 1 is therefore not clear, as required by Article 84 EPC (see also Guidelines, CIII, 4.5, last part).

2.4 According to the case law and practice of the EPO, the patentability of an invention, for which inventive step is a requirement, must arise from features and aspects of the invention from which a technical solution to a technical problem can be inferred and which are thus of a technical character (see, for example, the PBS-decision (T 931/95) and the COMVIK decision (T 641/00 - Two identities/COMVIK, OJ EPO 2003, 352), points 2 and 3, respectively).

In the context of claim 1 and corresponding independent claims 10-12, the meaning of the data ("data indicating permissible behaviour for an application") is considered to be non-technical and not contributing to the technical character of the invention, and thus cannot add to the inventive step of the subject-matter of those claims.

3. Documents D2-D4 are also considered relevant for assessing the inventive step of the



## Bescheid/Protokoll (Anlage)

## Communication/minutes (Annex)

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present set of claims (see the passages cited in the search report).

Should the applicant regard some particular matter as patentable, an independent claim should be filed taking account of the following observations:

- the application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed (Article 123(2) EPC).
- any information the applicant may wish to submit concerning the subject-matter of the invention, for example further details of its advantages or of the problem it solves, and for which there is no basis in the application as filed, should be confined to the letter of reply and not be incorporated into the application (Article 123(2) EPC and the Guidelines, C-VI, 5.3.4 to 5.3.8).
- the independent claim should be drafted in the two-part form in accordance with Rule 29(1) EPC, which in the present case would be appropriate, with those features known in combination from the available prior art being placed in the preamble (Rule 29(1)(a) EPC) and with the remaining features being included in the characterising part (Rule 29(1)(b) EPC). If, however, the applicant is of the opinion that the two-part form would be inappropriate, then reasons therefor should be provided in the letter of reply. In addition, the applicant should ensure that it is clear from the description which features of the subject-matter of the independent claims are already known in combination from the closest prior art (see the Guidelines, C-III, 2.3b).
- the features of the claims should be provided with reference signs placed in parentheses to increase the intelligibility of the claims (Rule 29(7) EPC). This applies to both the preamble and characterising portion (see the Guidelines, C-III, 4.11).
- the applicant is invited to specify in an accompanying letter what is the difference between the independent claim and the available prior art (D1-D4), what is the technical problem solved by said difference, and why the proposed solution is not obvious to the skilled person.